

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL MANJEET SINGH,
Plaintiff,
v.
PHEIFFER, et al.,
Defendants.

Case Number 1:22-cv-01412-EPG (PC)

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT PLAINTIFF'S
APPLICATION TO PROCEED IN FORMA
PAUPERIS BE DENIED

(ECF No. 10)

OBJECTIONS, IF ANY, DUE WITHIN
TWENTY-ONE DAYS

ORDER DIRECTING CLERK TO ASSIGN
DISTRICT JUDGE

Michael Manjeet Singh ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

I. PROCEDURAL BACKGROUND

Plaintiff sent a letter to the Clerk of Court in the Northern District of California, which requested the necessary forms to file a civil rights action pursuant to Section 1983. (ECF No. 1). On, April 18, 2022, the Northern District Clerk opened this case based upon that letter, and mailed Plaintiff the necessary forms, including the civil complaint form and application to proceed *in forma pauperis*, along with instructions to return the forms within 28 days. (See ECF Nos. 3 and 4). On May 18, 2022, this case was dismissed without prejudice because the Court had not received a response from Plaintiff within the deadline. (ECF No. 7).

1 On May 27, 2022, Plaintiff filed his complaint (ECF No. 9) and motion for leave to
2 proceed *in forma pauperis* (ECF No. 10). On May 31, 2022, Plaintiff filed a letter that argued
3 he had timely submitted the necessary forms within the Court's deadline under the prisoner
4 mailbox rule. (ECF No. 13).

5 On November 2, 2022, District Judge Jeffrey S. White issued an order vacating
6 dismissal and judgment and reopening this case. (ECF No. 19). Because Plaintiff's complaint
7 arises from an incident which occurred at Kern Valley State Prison, the case was also
8 transferred to the Eastern District. (Id.)

9 As Plaintiff's motion to proceed *in forma pauperis* was pending at the time of transfer,
10 the Clerk of Court directed the California Department of Corrections and Rehabilitation to
11 submit a certified prison trust account statement for Plaintiff's account. (ECF No. 22).

12 II. DISCUSSION

13 The Court will recommend that Plaintiff's application be denied. As Plaintiff had \$13,
14 485.32 in his prison trust account at the time he filed this action (ECF No. 23, p. 1), it appears
15 that Plaintiff can afford to pay the filing fee for this action.

16 Additionally, given that Plaintiff's account balance has been over \$12,887.57 for the
17 entirety of the last six months (*id.*), it appears that Plaintiff would be required to pay the filing
18 fee in full immediately even if the Court granted Plaintiff's application. 28 U.S.C. § 1915(b)(1)
19 ("Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma
20 pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall
21 assess and, when funds exist, collect, as a partial payment of any court fees required by law, an
22 initial partial filing fee of 20 percent of the greater of-- (A) the average monthly deposits to the
23 prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-
24 month period immediately preceding the filing of the complaint or notice of appeal.").

25 Therefore, the Court will recommend that Plaintiff's application to proceed in forma
26 pauperis will be denied and that Plaintiff be required to pay the filing fee of \$402.00 for this
27 action in full.

28 //

